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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,509	10/30/2003	John J. Gregel	ERICP0326USB	7672

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EXAMINER

BRITTAIN, JAMES R

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/697,509	Applicant(s) GREGEL ET AL.	
	Examiner James R. Brittain	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-5, 7, 8, 26-30, 32-39 and 56-68 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-5, 7, 8, 26-30, 37-39 and 56-68 is/are allowed.
- 6) ☒ Claim(s) 32-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 32-36 are rejected under 35 U.S.C. §103(a) as being unpatentable over Cherry et al. (US 4508409) in view of Werner (US 4408926).

Cherry et al. (figures 1-7) teaches two species of wire holding clamps. In regard to the first species of figures 1-4, Cherry et al. teaches wire holding clamp comprising a jaw element section 14, 16 configured to engage ends of generally axially aligned wires, wherein the jaw element section includes multiple jaw elements 14 physically coupled together by retaining ring 16 and there are tapered collars 18 for engaging tapered outer surfaces of the jaw element section 14, 16 to force the jaw elements 14 inward to grip ends of the wire. Further, applicant's claim construction is so broad as to permit an alternative reading of the first species of figures 1-4, wherein Cherry et al. teaches wire holding clamp comprising a plurality of jaw element sections 14 configured to engage ends of generally axially aligned wires, wherein each jaw element section includes multiple jaw elements in the form of the teeth 56 wherein the jaw element are physically coupled together by the remaining teeth connecting portion of the jaw element sections 14 and there are tapered collars 18 for engaging tapered outer surfaces of the jaw element sections 14 to force the jaw element sections 14 inward to grip ends of the wire. In regard to the second species of figures 5-7, Cherry et al. teaches wire holding clamp comprising

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a plurality of jaw element sections 14 configured to engage ends of generally axially aligned wires, wherein each jaw element section includes multiple jaw elements 70 physically coupled together by retaining ring 16 and there are tapered collars 18 for engaging tapered outer surfaces of the jaw element sections 14 to force the jaw element sections 14 inward to grip ends of the wire. The tapered collars are made of two materials and outer insulating layer 40 and an inner sleeve made of aluminum. The difference for both species is that the devices grip wire and is not disclosed as a reinforcing bar splice and it is not stated that the outer sleeve has a greater tensile strength than the material of the inner sleeve portion. It would have been obvious to use the devices of Cherry et al. as reinforcing bar splices in view of Werner (figures 1-5) teaching that wire holding clamps have characteristics whereby they can be used as reinforcing bar clamps as indicated in col. 3, lines 1-5 and since carbon fibers are non-conductive materials the use of such materials would have been obvious as a matter of choosing a material known for its non-conductive and strong material properties.

Response to Arguments

Applicant's arguments filed December 29, 2005 have been fully considered but they are not persuasive. Applicant argues that the use of a common material used for hardness and insulating properties and corrosion resistance instead of the layer provided by Cherry et al. provides non-obvious subject matter. The use of a common material, in this case carbon fiber, for its expected result in an engineering application is not patentable and carbon fiber materials are as common in the current engineering environment as plastic. There is nothing unobvious in its use.

Allowable Subject Matter

Claims 2-5, 7, 8, 26-30, 37-39 and 56-68 are allowed.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (571) 272-7065. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James R. Brittain
Primary Examiner
Art Unit 3677

JRB